

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALBERT C. HUH,

Defendant.

CASE NO. CR04-0432C

ORDER

This matter is before the Court on Defendant's motion (Dkt. No. 80) to amend the presentence report and judgment. Having considered the papers submitted by Defendant, as well as the record as a whole, and finding oral argument unnecessary, the Court DENIES Defendant's motion for the following reasons.

Defendant requests an order amending his presentence report to delete references to a two-point enhancement for possession of a dangerous weapon, and to amend the judgment to the extent it adopted that enhancement. (*See* Def.'s Mot. 1.) He argues that the presence of that reference precludes him from participating in the Bureau of Prisons's Residential Drug Abuse Prevention Program. (*Id.*)

The weapons references in Defendant's presentence report reflect his possession, on two separate occasions, of loaded handguns: police discovered a semi-automatic .40 caliber handgun on Huh during his initial arrest, and again found him carrying a 9mm pistol while on pretrial release. The government

1 agreed to dismiss formal charge for those incidents in the plea agreement, which otherwise would have
2 resulted in a consecutive five-year sentence. (*Id.* 1–2.) The Court also agreed to a downward departure
3 at sentencing, but stated on the record that it found Defendant’s lack of judgment “very troubling”:
4 “having been given release, he was so unwise and immature as to be involved with a weapon again.”
5 (Def.’s Mot. Ex. 1.) The Court imposed a lighter sentence due to Defendant’s age, but emphasized that
6 the weapons incidents needed to be “recognized in the sentence.” (*Id.*)

7 The Court encourages Defendant to continue his efforts to participate in the prison’s abuse
8 program, and sees nothing in the record suggesting that the presentence report would preclude his
9 eligibility. In fact, the only aspect of the abuse program for which Defendant is ineligible due to the
10 enhancement is the 12-month early release. *See* 18 U.S.C. § 3621; (Pl.’s Opp’n Ex. B). This is an
11 insufficient basis to clear the presentence report of references to very serious infractions, especially given
12 the substantial benefits Defendant has already received by avoiding the formal charge and a consecutive
13 sentence.

14 Accordingly, the Court DENIES Defendant’s motion to amend the presentence report or the
15 judgment.

16 SO ORDERED this 9th day of November, 2005.

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18 A handwritten signature in black ink, appearing to read "John C. Capron", written over a horizontal line.

19 UNITED STATES DISTRICT JUDGE
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